

SEP 24 2007

ACTION MEMORANDUM AMENDMENT

SUBJECT: Request for a Project Ceiling Increase and Exemptions of the 12-Month and \$2 Million Statutory Limits for the On-going, Time-critical Removal Action at the United Zinc #1 Site in Iola, Allen County, Kansas.

FROM: Eddie McGlasson, On-Scene Coordinator
Emergency Response & Removal Branch

THRU: Scott Hayes, Chief
Emergency Response & Removal Branch

TO: Cecilia Tapia, Director
Superfund Division



2.0

CERCLIS ID#: KSN000705026
Site ID#: A78Q
Category of Removal: Time Critical
Nationally Significant/Precedent Setting: No

I. PURPOSE

This removal action started on September 15, 2006. The 12-month statutory limit for removal actions was reached on September 15, 2007. The purpose of this Action Memorandum Amendment is to request and document approval of a project ceiling increase and an emergency exemption to the 12-month and \$2 million statutory limit on removal actions for the ongoing removal action described herein for the United Zinc #1 Site (site). This 12-month and \$2 million exemption continues to satisfy the criteria for removal actions under section 300.415(b)(2) of the National Contingency Plan (NCP). This request meets the emergency criteria for exemption of section 104(c)(1) of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9604(c)(1) from the statutory limits of removal actions and is necessary because EPA needs to continue to eliminate or reduce potential ingestion exposure due to the presence of lead and other heavy metals in the soils. To date, 131 residential properties have been excavated of lead-contaminated soils and backfilled with clean dirt. Approximately 68 of those properties were impacted by heavy rains and flooding prior to restoring the properties to their original condition. This exemption is necessary because EPA needs to revegetate the remediated properties, continue to sample the remaining properties, and will continue to excavate lead-contaminated residential soils when they exceed the removal action levels. It is anticipated that additional properties that exceed the removal action level (RAL) will be identified during ongoing assessment activities.

SUPR:ER&R:McGlasson:md/7624 G:\ER&R\McGlasson\UZINC #1 Site amendment 9.07

Concurrences remain valid.....

SUPR
McGlasson

CNSL
Meyer

CNSL
Micinski

SUPR
Hayes

SUPR
Hankins

SUPR
Jackson

SUPR
Tapia

Handwritten signatures and dates:
A-21
9-24/07
9/24/07

ACTION MEMORANDUM AMENDMENT

SUBJECT: Request for a Project Ceiling Increase and Exemptions of the 12-Month and \$2 Million Statutory Limits for the On-going, Time-critical Removal Action at the United Zinc #1 Site in Iola, Allen County, Kansas.

FROM: Eddie McGlasson, On-Scene Coordinator
Emergency Response & Removal Branch

THRU: Scott Hayes, Chief
Emergency Response & Removal Branch

TO: Cecilia Tapia, Director
Superfund Division

CERCLIS ID#:	KSN000705026
Site ID#:	A78Q
Category of Removal:	Time Critical
Nationally Significant/Precedent Setting:	No

I. PURPOSE

The purpose of this Action Memorandum Amendment is to request and document approval of a project ceiling increase and an emergency exemption to the 12-month and \$2 million statutory limit on removal actions for the ongoing removal action described herein for the United Zinc #1 Site (site). This 12-month and \$2 million exemption continues to satisfy the criteria for removal actions under section 300.415(b)(2) of the National Contingency Plan (NCP). This request meets the emergency criteria for exemption of section 104(c)(1) of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9604(c)(1) from the statutory limits of removal actions and is necessary because EPA needs to continue to eliminate or reduce potential ingestion exposure due to the presence of lead and other heavy metals in the soils. To date, 131 residential properties have been excavated of lead-contaminated soils and backfilled with clean dirt. Approximately 68 of those properties were impacted by heavy rains and flooding prior to restoring the properties to their original condition. This exemption is necessary because EPA needs to revegetate the remediated properties, continue to sample the remaining properties, and will continue to excavate lead-contaminated residential soils when they exceed the removal action levels.

Concurrences remain valid.....

SUPR:ER&R:McGlasson:md/7624 g:\ER&R\McGlasson\UZINC #1 Site amendment 9.07

SUPR
McGlasson

CNSL
Meyer

CNSL
Micinski

SUPR
Hayes

SUPR
Jackson-
Singleton

SUPR
Jackson

SUPR
Tapia

for
9/20/07
th.
9-20-07

ACTION MEMORANDUM AMENDMENT

SUBJECT: Request for a 12-Month and \$2 Million Emergency Exemption for the Removal Action at the United Zinc #1 Site in Iola, Allen County, Kansas.

FROM: Eddie McGlasson, On Scene Coordinator
Emergency Response & Removal Branch

THRU: Scott Hayes, Chief
Emergency Response & Removal Branch

TO: Cecilia Tapia, Director
Superfund Division

CERCLIS ID#	KSN000705026
Site ID#	A78Q
Category of Removal	Time Critical
Nationally Significant/Precedent Setting:	No

I. PURPOSE

The purpose of this Action Memorandum Amendment is to request and document approval of an emergency exemption to the 12-month and \$2 million statutory limit on removal actions for the ongoing removal action described herein for the United Zinc #1 Site (site). This 12-month and \$2 million exemption continues to satisfy the criteria for removal actions under section 300.415(b)(2) of the National Contingency Plan (NCP). This request meets the emergency criteria for exemption of section 104(c)(1) of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9604(c)(1) from the statutory limits of removal actions and is necessary because EPA needs to continue to eliminate or reduce potential ingestion exposure due to the presence of lead and other heavy metals in the soils. To date, 131 residential properties have been excavated of lead-contaminated soils and backfilled with clean dirt. Approximately 68 of those properties were impacted by heavy rains and flooding prior to restoring the properties to their original condition. This exemption is necessary because EPA needs to revegetate the remediated properties, continue to sample the remaining properties, and to excavate lead-contaminated residential soils.

SUPR:ER&R:McGlasson:md/7624 g:\ER&R\McGlasson\UZINC #1 Site amendment 9.07

SUPR
McGlasson

CNSL Denise
~~Robert~~ Roberts

CNSL
Micinski

SUPR
Hayes

SUPR
Jackson-
Singletary

SUPR
Jackson

SUPR
Tapia

Em
9/14/07

DL
9/17/07

OW
9.17.07

HT
9/19/07

II. EXEMPTION FROM STATUTORY LIMITS

This response action has gone beyond the 12-month and \$2 million statutory limitations for a removal action. The 12-month statutory limit for removal actions was September 15, 2007. Due to the factors noted below, an exemption to the 12-month and \$2 million limit is requested. The number of residential properties that need to be revegetated require additional time to complete. Additionally, there are residential yards exceeding RALs where excavation is necessary. An emergency exemption from the statutory limit is necessary for this action in accordance with section 104(c)(1) of CERCLA, 42 U.S.C. § 9604(c)(1).

There is an immediate risk to the public health or the welfare or the environment at the site. Site characterization activities conducted at the site determined the presence of high levels of lead contamination in residential soils where children reside and play. The primary health threat is ingestion of lead by children and pregnant women. Children are particularly susceptible to lead contamination, and the harm that results from ingestion of lead is immediate and irreversible, including permanent learning disabilities. Continuation of the response action described in the Action Memorandum will eliminate the immediate risk posed by soil contamination in the residential yards.

The response actions are immediately required to prevent, limit, or mitigate an emergency. Following completion of the described response actions, site contaminants will be removed from the soil in the yards, reducing the potential for exposure to lead. If these threats are not addressed, residents in the Iola community will continue to be exposed to high lead concentrations that could lead to the adverse health effects described above.

Assistance will not otherwise be provided on a timely basis. Neither the state of Kansas, the county, nor the local governments have the response authority and/or resources to implement the described actions. The high lead levels found in residential soils in the Iola Community require an immediate response to address the health risks posed to the residents.

III. SITE CONDITIONS AND BACKGROUND

A. Site Description

1. Removal site evaluation

See previously approved Action Memorandum.

2. Physical location and site characteristics

See previously approved Action Memorandum.

3. Release or threatened release into the environment of a hazardous substance, or pollutant, or contaminant

See previously approved Action Memorandum.

4. NPL status

See previously approved Action Memorandum.

5. Supporting documentation

All relevant documents regarding the contamination at the site is included in the site's Administrative Record.

B. Other Actions to Date

To date, approximately 1,686 residential properties have had the soil sampled, of which 131 properties have been remediated.

C. State and Local Authorities' Roles

See previously approved Action Memorandum.

IV. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT AND STATUTORY AND REGULATORY AUTHORITIES, ENDANGERMENT DETERMINATION, PROPOSED ACTIONS, AND ESTIMATED COSTS

See previously approved Action Memorandum.

V. ENDANGERMENT DETERMINATION

The actual release of a hazardous substance at this site, if not addressed by implementing the response action selected in this Action Memorandum Amendment, presents an imminent and substantial endangerment to the health of the public that comes in contact with the site and to public welfare and the environment.

VI. PROPOSED ACTIONS AND ESTIMATED COST

A. Proposed Actions

See previously approved Action Memorandum.

B. Estimated Costs

The costs associated with this removal action are estimated as follows:

Extramural Costs:

	<u>Current Ceiling</u>	<u>Proposed Increase</u>	<u>Proposed Ceiling</u>
Removal Costs	\$1,666,602	\$1,006,869	\$2,673,471
Contingency	<u>333,321</u>	<u>201,374</u>	<u>534,695</u>
Total Removal Project Ceiling	\$1,999,923	\$1,208,243	\$3,208,166

EPA direct and indirect costs, although cost recoverable, do not count toward the Removal Project Ceiling for this removal action. Refer to the enforcement section for a breakout of these costs.

VII. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

Delayed action will continue to potentially expose residents, particularly children, to the contaminated soils and drinking water exceeding the federal action levels.

VIII. OUTSTANDING POLICY ISSUES

None.

IX. ENFORCEMENT

The total EPA costs for this removal action based on full cost-accounting practices are estimated to be \$5,207,343. The EPA direct and indirect costs, although cost recoverable, do not count toward the Removal Ceiling for this removal action.

Intramural Costs:

	<u>Current Ceiling</u>	<u>Proposed Increase</u>	<u>Proposed Ceiling</u>
EPA Direct Costs	\$ 150,000	\$ 97,500	\$ 247,500
EPA Indirect Costs (52.39% of all costs)	<u>1,089,796*</u>	<u>684,079</u>	<u>1,810,423</u>
Subtotal Intramural Costs	\$1,239,796	\$781,579	\$2,057,923
<u>Total Project Costs</u>			\$5,266,089

*Previous indirect rate of 50.69% was used.

Direct costs include direct extramural and direct intramural costs. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site-specific direct costs, consistent with the full cost-accounting methodology effective October 2, 2000. These estimates do not include prejudgment interest, do not take into account other enforcement costs, including Department of Justice costs, and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor deviation of actual total costs from this estimate will affect the United States' right to cost recovery.

X. RECOMMENDATION

This decision document represents the approved removal action for the contaminated soils at the site. The removal action was developed in accordance with CERCLA, as amended, and is not inconsistent with the NCP. This decision is based on the Administrative Record for the site.

Conditions at the site continue to meet NCP section 300.415(b) criteria for a removal action and I recommend your approval of the \$1,208,243 ceiling increase to allow the removal response to continue. The approval would increase the Total Removal Ceiling to \$3,208,166.

Approved:

Cecilia Tapia, Director
Superfund Division

Date

Attachment: Enforcement Confidential Addendum

ENFORCEMENT CONFIDENTIAL

United Zinc Site #1 – Iola, Allen County, Kansas

ENFORCEMENT ADDENDUM

1. Potentially Responsible Party (PRP) Search

From 1902-1912, the United Zinc and Chemical Company owned and operated a smelter in the city of Iola, Kansas. After smelting operations ceased, the United Zinc and Chemical Company retained ownership of the area until 1925. At the present time, the 17 acres that compose the site are owned by various separate individuals. In 1986, United Zinc forfeited its charter to do business in the state of Kansas and is defunct.

2. Notification of PRPs of Potential Liability and of the Required Removal Action

According to records as recited in Paragraph 1, the United Zinc and Chemical Company no longer operates or owns the site.

3. Decision Whether to Issue an Order

Since the United Zinc and Chemical Company is defunct, there are no other PRPs related to this cleanup.

Because there are no viable PRPs and the urgency of the health effects caused by lead, the proposed removal in this Action Memorandum Amendment will be conducted and funded by EPA.